

REMARKS

Pending claims are 1-28, upon entry of this amendment. Claims 1 and 23 are amended to list the specific silanes used to prepare the scratch resistant layer (SR). No new matter is added; support for these amendments can be found at p. 6, line 15 (methyltrialkoxysilanes); p. 8, lines 10-12 (methyltrimethoxysilanes and methyltrihydroxysilanes); p. 11 (silylacrylates); p. 13 (silyl acrylates with nanoparticles); and p. 14 (cyclic organosiloxanes). Claims 1 and 23 are also amended to include optional ingredients in the top layer of the multilayered article. No new matter is added; these ingredients are shown in the specification at pages 17, 23 and 24 and in various dependent claims. Claim 14 is amended to clarify that VO is actually the cation VO^{3+} , as shown on page 18, line 12 of the specification.

Rejections under 35 U.S.C. §112

Claims 8, 10-12 and 14 are rejected under 35 U.S.C. §112, second paragraph, as indefinite. Applicants respectfully traverse these rejections as they may pertain to the amended claims.

Claim 1 had been amended to recite the inclusion of optional ingredients water, acid, solvent and additives in the composition of the top layer. Accordingly, Claims 8 and 10-12 are no longer broader in scope than the claim from which they depend. With regard to Claim 11, solids are not used as a component, but are formed as a product of the hydrolysis reaction of compounds I and II.

Regarding Claim 14, VO (vanadium oxide) has been clarified as VO^{3+} . Applicants submit that Claims 8, 10-12 and 14 meet all requirements of the statute under §112, and respectfully request withdrawal of this basis of rejection.

Rejections under 35 U.S.C. §102

Claims 1-3, 5, 13, 16, 18 and 22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Yoldas et al., U.S. 4,753,827; Claims 1, 5, 12-14, 16 and 18-21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Aben et al., U.S. 5,742,119 (under interpretation **B** outlined in the office action); and Claims 1, 8, 9, 12-13, 16-19, 23, 24 and 28 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Aben et al., U.S. 5,742,119 (under interpretation **A** outlined in the PO-7877

-9-

office action). Applicants respectfully traverse these rejections in view of the amendments made to Claims 1 and 23 and address all §102 rejections with the following remarks.

The §102 rejections of the above claims are based on a claim interpretations in which **A**, the top layer comprises only component 3(a) in Claim 1 and 23, or **B**, the top layer comprises both components 3(a) and 3(b) of Claims 1 and 23.

As amended, the composition of the scratch-resistant layer is distinct from the top layer in the multilayered articles of the present invention, even when $M = Si$ in formula I for component 3(a), when the top layer comprises either component 3(a) alone or 3(a) and 3(b). Neither Yoldas nor Aben disclose a multilayered article having a scratch-resistant layer and a top layer with distinct and different compositions, as in the present invention, and therefore Yoldas and Aben cannot anticipate Claim 1. Applicants respectfully request withdrawal of all §102 rejections.

Rejection under 35 U.S.C. §103

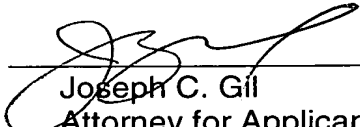
Claims 8, 10, 20 and 21 are rejected under 35 U.S.C. §103(a) as obvious and unpatentable over Yoldas, et al. Applicants respectfully traverse this rejection as it may pertain to the amended claims.

Yoldas does not disclose or even remotely suggest a multilayered article having two distinct layers over a substrate, as now reflected in Claim 1. Claim 1 is not obvious in light of the teachings of Yoldas et al. Accordingly, dependent Claims 8, 10, 20 and 21 are also not obvious in view of Yoldas et al.

Claims 10, 25 and 26 are rejected under 35 U.S.C. §103(a) as unpatentable over Aben et al. Applicants respectfully traverse this rejection as it may pertain to the amended claims. The same reasoning as discussed above with respect to the §103 rejection of Yoldas et al. applies here. Aben et al. do not teach a multilayered article where the scratch resistant layer is chemically distinct from the top layer, as now recited in Claims 1 and 23. Claims 1 and 23 are not obvious in light of the teachings of Aben et al. Accordingly, dependent Claims 10, 25 and 26 are also not obvious in view of Aben et al.

In light of the amendments herein and the preceding remarks, Applicants respectfully submit that Claims 1-28 are in condition for allowance; such action is respectfully requested at an early date.

Respectfully submitted,

By 
Joseph C. Gil
Attorney for Applicants
Reg. No. 26,602

Bayer MaterialScience LLC
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741
(412) 777-3813
FACSIMILE PHONE NUMBER:
(412) 777-3902

f:\shared\kpl\da289.res